

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN ODI,	:	
<i>INDIVIDUALLY AND AS THE PERSONAL</i>	:	
<i>REPRESENTATIVE OF THE ESTATE OF</i>	:	
<i>LILY ODI, DECEASED</i>	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 15-4903
GARY ALEXANDER, ET AL.	:	

**ORDER**

**AND NOW**, this 7<sup>th</sup> day of March, 2017, upon consideration of: (1) Defendants' Gary Alexander and Beverly Mackereth's Motion to Dismiss First Amended Complaint (ECF No. 5); (2) Defendant Linda Robson's Motion to Dismiss First Amended Complaint (ECF No. 12); and (3) Defendant Jane Richards' Motion to Dismiss First Amended Complaint (ECF No. 17), and all documents submitted in support thereof, and in opposition thereto, it is **ORDERED** that the Motions to Dismiss are **GRANTED** in part, and **DENIED** in part, as follows:

1. Count I (claims under 42 U.S.C. § 2000d) and Count III (claims under 42 U.S.C. § 1981) are dismissed with prejudice.
2. All claims asserted in Count II (claims under 42 U.S.C. § 1983) and Count IV (claims under 42 U.S.C. § 1396a(a)(8), and 42 C.F.R. § 435.930(b)) against Defendants in their official capacities are dismissed with prejudice.
3. The substantive due process claims asserted in Count II are dismissed against all Defendants with prejudice.
4. The equal protection claims asserted in Count II (claims under 42 U.S.C. § 1983) are dismissed without prejudice against all Defendants. Plaintiffs may amend

Count II within fourteen (14) days from the date of this Order, consistent with the accompanying Memorandum.

5. The procedural due process claims asserted in Count II (claims under 42 U.S.C. § 1983) are dismissed without prejudice against Defendants Alexander, Mackereth, and Robson. Plaintiffs may amend Count II within fourteen (14) days from the date of this Order, consistent with the accompanying Memorandum.
6. Count IV (claims under 42 U.S.C. § 1396a(a)(8), and 42 C.F.R. § 435.930(b)) are dismissed without prejudice against Defendants Alexander, Mackereth, and Robson. Plaintiffs may amend Count IV without fourteen (14) days of the date of this Order, consistent with the accompanying Memorandum.

**IT IS SO ORDERED.**

**BY THE COURT:**

A handwritten signature in black ink, appearing to read 'R. Surrick', is written over a faint, larger signature that appears to read 'C. Surrick'.

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**R. BARCLAY SURRICK, J.**